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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,360	08/09/2001	Nicholas Webb	3036/49686	5293

7590 03/21/2006

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EXAMINER

SHANKAR, VIJAY

ART UNIT	PAPER NUMBER
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2673

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/763,360	Applicant(s) WEBB ET AL.	
	Examiner VIJAY SHANKAR	Art Unit 2673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-33, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-33 and 35 is/are allowed.
- 6) ☒ Claim(s) 21-28 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 21- 28 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Mankovitz (5,949,492).

Regarding Claim 21, Mankovitz teaches the apparatus for displaying information (Background and Summary), the apparatus comprising: display means (101 in fig.3); and activation means coupled to the display means, for causing the display means to display predefined information upon reception of predefined acoustically propagated data broadcast by a commercial broadcast source (Figs.3-5; Column 9, line 36- Col.11, line 50; Fig.7; Col.13, line 49- Col.15, line 47); wherein the commercial broadcast source comprises one of a commercial radio broadcaster and a commercial television broadcaster (Col.14, lines 41-65; Fig.20; Col.24, line 35- Col.25, line 49).

Regarding Claim 22, Mankovitz teaches the apparatus wherein the acoustically propagated data are incorporated in an acoustic signal onto which the acoustically propagated data have been digitally modulated. (Figs.3-4; Column 9, line 36- Col.11, line 50).

Regarding Claim 23, Mankovitz teaches the apparatus further comprising programming means for programming the predefined data and the predefined information. (Col.14, lines 41-65; Fig.20; Col.24, line 35- Col.25, line 49).

Regarding Claim 24, Mankovitz teaches the apparatus wherein the display means is a liquid crystal display (101 in fig.3).

Regarding Claims 25-26, Mankovitz teaches the apparatus wherein the activation means is an application specific integrated circuit; and a microphone, an analog to digital interface, a programmable digital processor and a battery. (Figs.3-4; Column 9, line 36- Col.11, line 50).

Regarding Claim 27, Mankovitz teaches the apparatus wherein predefined information is an advertisement. (Col.14, lines 41-65; Fig.20; Col.24, line 35- Col.25, line 49).

Regarding Claim 28, Mankovitz teaches the apparatus wherein the predefined information is a message. (Col.14, lines 41-65; Fig.20; Col.24, line 35- Col.25, line 49).

Regarding Claim 36, Mankovitz teaches the apparatus wherein the predefined information comprises a preset visually discernable message or symbol which differs from "the predefined acoustically propagated data". (Col.14, lines 41-65; Fig.20; Col.24, line 35- Col.25, line 49).

4. Claims 29-33 and 35 are allowed.
5. Applicant's arguments with respect to Claims 21-28, and 36 have been considered but are moot in view of the new ground(s) of rejection.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIJAY SHANKAR whose telephone number is (571) 272-7682. The examiner can normally be reached on M-F 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BIPIN SHALWALA can be reached on (571) 272-7681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VIJAY SHANKAR
Primary Examiner
Art Unit 2673

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